



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF02000 L12200000.DU0000]

Notice of Proposed Supplementary Rules for Guffey Gorge in Park County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) is proposing supplementary rules to regulate certain activities on public lands within Guffey Gorge in Park County, Colorado. These proposed supplementary rules would implement decisions found in the Guffey Gorge Management Plan Environmental Assessment (EA), approved on June 29, 2015, to provide for the protection of persons, property, and public lands resources located within an 80-acre site. These proposed supplementary rules will result in changes to some currently authorized activities related to possession or use of alcohol, amplified music, vehicle parking, and visitors with dogs.

DATES: Please send comments to the following address by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Comments postmarked or received in person or by electronic mail after this date may not be considered in the development of the final supplementary rules.

ADDRESSES: You may send comments by mail or hand delivery to Linda Skinner, Outdoor Recreation Planner, BLM Royal Gorge Field Office, 3028 E. Main Street, Cañon City, CO 81212. You may also send comments via e-mail to

rgfo_comments@blm.gov (include “Proposed Supplementary Rules-Guffey Gorge” in the subject line).

FOR FURTHER INFORMATION CONTACT: Linda Skinner, Outdoor Recreation Planner; see address above; telephone (719) 269-8732. Persons who use a telecommunications device for the deaf may call the Federal Information Relay Service (FIRS) at 800-877-8339 to contact Linda Skinner during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

You may mail, hand-deliver, or e-mail comments to Linda Skinner at the addresses above. Written comments on the proposed supplementary rules should be specific, confined to issues pertinent to the proposed supplementary rules, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the rules that the comment is addressing. The BLM will consider comments received before the end of the comment period (see **DATES** section), including those that are postmarked or electronically dated before the deadline and delivered to the addresses listed above. Comments, including names, street addresses, and other contact information of respondents, will be available for public review at the BLM Royal Gorge Field Office (see address above). Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask

us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

Guffey Gorge is an 80-acre tract of public land in Park County, Colorado. It is surrounded by private land with Park County Road 102 providing legal public access. Until ten years ago, recreational use of this area was light, and the area was used primarily by local residents for picnicking, hiking, and swimming. Recreational use of the area has increased significantly over the past five years, resulting in resource damage, user conflicts, and safety hazards for visitors and surrounding private landowners. In 2013, the BLM began the public input process for developing a management plan for the 80-acre parcel to manage the increasing visitor use and associated issues. This process included presentations and site tours with the Front Range Resource Advisory Council (RAC) and collaboration with stakeholders and concerned citizens. On August 11, 2014, the BLM initiated a 30-day public scoping period. Based on feedback received during this process, the BLM developed a proposed action and released a preliminary EA for a 30-day public review on November 20, 2014. The BLM incorporated comments into the Final EA and corresponding Decision Record signed on June 29, 2015.

III. Discussion of the Proposed Supplementary Rules

These proposed supplementary rules would implement certain decisions from the Guffey Gorge Management Plan, which was approved on June 29, 2015, on lands administered by the Royal Gorge Field Office. The planning area consists of approximately 80 acres of public lands within Park County, Colorado, described below:

Park County, Colorado, Sixth Principal Meridian

T. 15 S., R. 71 W.

Section 4: SE1/4SE1/4

Section 9: NE1/4NE1/4

Containing 80 acres, more or less.

These proposed supplementary rules are needed to address significant public safety concerns and resource protection issues resulting from increased and unsafe public use on public lands known as Guffey Gorge. The authority for these proposed supplementary rules is set forth at section 303 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1740, and 43 CFR 8365.1–6. This notice, with a detailed map, will be posted at the Royal Gorge Field Office.

Proposed supplementary rule number one would prohibit possession and consumption of alcoholic beverages. As visitation at Guffey Gorge has increased, alcohol and drug use has also increased, leading to public health and safety concerns. The proposed supplementary rule would help reduce disruptive behavior associated with alcohol use, improve public safety, and reduce litter in the area.

Proposed supplementary rule number two would prohibit visitors from parking a motor vehicle outside of designated parking areas. Visitor parking is limited at Guffey Gorge and frequently overflows onto the shoulder of Park County Road 102. Park County Road 102 is a narrow, two lane road with limited visibility near the Guffey Gorge trailhead. Restricting parking to designated parking areas only is essential for public health and safety.

Proposed supplementary rule number three would require animals brought into the area to be on a leash and under the control of a person, or otherwise physically restricted. This

rule would help reduce problems associated with unrestrained dogs observed by staff in recent years. Currently, BLM regulations only require dogs to be restrained in developed recreation sites. Guffey Gorge is not a developed site, so existing BLM regulations do not apply. The proposed supplementary rule would reduce conflicts between visitors; reduce conflicts between domestic animals and wildlife; and would help control domestic animal waste. Proposed supplementary rule number four would prohibit the operation of any device producing amplified sound, such as stereos, speakers, and public address systems. This proposed supplementary rule would help restore opportunities for quiet recreational activities recognized as one of Guffey Gorge's attributes.

IV. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These proposed supplementary rules are not significant regulatory actions and are not subject to review by the Office of Management and Budget under Executive Order 12866. These proposed supplementary rules would not have an annual effect of \$100 million or more on the economy. They would not adversely affect in a material way the economy; productivity; competition; jobs; environment; public health or safety; or State, local, or tribal governments, or communities. These proposed supplementary rules would not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The proposed supplementary rules would not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor would they raise novel legal or policy issues. These proposed supplementary rules would merely establish rules of conduct for public use of a limited area of public lands.

Clarity of the Rules

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. The BLM invites your comments on how to make these proposed supplementary rules easier to understand, including answers to questions such as the following:

- (1) Are the requirements in the proposed supplementary rules clearly stated?
- (2) Do the proposed supplementary rules contain technical language or jargon that interferes with their clarity?
- (3) Does the format of the proposed supplementary rules (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- (4) Would the proposed supplementary rules be easier to understand if they were divided into more (but shorter) sections?
- (5) Is the description of the proposed supplementary rules in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed supplementary rules? How could this description be more helpful in making the proposed supplementary rules easier to understand?

Please send any comments you may have on the clarity of the proposed supplementary rules to one of the addresses specified in the **ADDRESSES** section.

National Environmental Policy Act

During the National Environmental Policy Act (NEPA) review for the Guffey Gorge Management Plan, the BLM fully analyzed the substance of these supplementary rules in EA, DOI-BLM-CO-200-2013-040. The BLM signed the Decision Record for the EA on June 29, 2015, and found that the proposed supplementary rules implementing the plan

decisions would not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of NEPA, 42 U.S.C. 4332(2)(C). The proposed supplementary rules would merely establish rules of conduct for public use of a limited area of public lands in order to protect natural resources and public health and safety. Although some activities would be prohibited in the area, the area would still be open to other recreation uses. A detailed statement under NEPA is not required. The BLM has placed the EA and Finding of No Significant Impact on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601-612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These proposed supplementary rules would have no effect on business entities of any size. They would merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM has determined under the RFA that these supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These supplementary rules are not a "major rule" as defined at 5 U.S.C. 804(2). These supplementary rules would merely impose reasonable restrictions on certain recreational

activities on certain public lands to protect natural resources and the environment and human health and safety. These supplementary rules would not:

- (1) Have an annual effect on the economy of \$100 million or more;
- (2) Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local agencies; or geographic regions; or
- (3) Have significant adverse effects on competition, employment, investment, productivity, or innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These proposed supplementary rules would not impose an unfunded mandate on the private sector; or State, local, or tribal governments of more than \$100 million per year; nor would these proposed supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. The proposed supplementary rules would merely establish rules of conduct for public use of a limited selection of public lands. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 et seq.).

Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights (Takings)

These proposed supplementary rules do not constitute a Government action capable of interfering with constitutionally protected property rights. The proposed supplementary rules would not address property rights in any form, and would not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that these proposed supplementary rules would not cause a “taking” of private property or

require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The proposed supplementary rules would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Therefore, in accordance with Executive Order 13132, the BLM has determined that the proposed supplementary rules would not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Colorado State Director has determined that these proposed supplementary rules would not unduly burden the judicial system and that they meet the requirements of Sections 3(a) and 3(b) (2) of the Order.

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these proposed supplementary rules do not include policies that have tribal implications, and would have no bearing on trust lands or on lands for which title is held in fee status by Indian Tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing these proposed supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These proposed supplementary rules do not comprise a significant energy action. These proposed supplementary rules would not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that the proposed supplementary rules would not impede facilitating cooperative conservation; would take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; would properly accommodate local participation in the Federal decision-making process; and would provide that the programs, projects and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

These proposed supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

V. Proposed Supplementary Rules

Author

The principal author of these final supplementary rules is Linda Skinner, Outdoor Recreation Planner, BLM, Royal Gorge Field Office.

For the reasons stated in the preamble, and under the authorities for Supplementary Rules found at 43 U.S.C. 1740 and 43 CFR 8365.1-6, the BLM Colorado State Director proposes supplementary rules for approximately 80 acres of public lands in Guffey Gorge, to read as follows:

PROPOSED SUPPLEMENTARY RULES FOR GUFFEY GORGE

Prohibited Acts

Unless otherwise authorized, the following acts are prohibited on all public lands, roads, trails, and waterways administered by the BLM within the Guffey Gorge Management Area:

- (1) Possession or consumption of alcoholic beverages;
- (2) Parking a motor vehicle outside of designated parking areas;
- (3) Bringing an animal into the area unless the animal is on a leash not longer than six feet and secured to a fixed object or under control of a person, or is otherwise physically restricted at all times; and
- (4) Operating any device producing amplified sound such as a stereo, speaker, public address system, or other similar device.

Exemptions

The following persons are exempt from these supplementary rules: any Federal, State, local and/or military persons acting within the scope of their duties; or members of any organized rescue or fire-fighting force in performance of an official duty; or individuals expressly authorized by the BLM.

Enforcement

Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8560.0-7, or both. In accordance with 43 CFR 8365.1-7, State or local officials may also impose penalties for violations of Colorado law.

Ruth Welch,

BLM Colorado State Director.

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